



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,543	04/17/2001	Douglas Richardson		5398

720 7590 04/09/2003

OYEN, WIGGS, GREEN & MUTALA  
480 - THE STATION  
601 WEST CORDOVA STREET  
VANCOUVER, BC V6B 1G1  
CANADA

EXAMINER

KIM, RICHARD H

ART UNIT	PAPER NUMBER
----------	--------------

2882

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/835,543

Applicant(s)

RICHARDSON, DOUGLAS

Examiner

Richard H Kim

Art Unit

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 5-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 17-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 April 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <u>13</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                 |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other:  |

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/835,543	RICHARDSON, DOUGLAS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Richard H Kim	2882	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Richard H Kim. (3) Gavin N. Manning.  
 (2) \_\_\_\_\_. (4) \_\_\_\_\_.

Date of Interview: 25 February 2003 .

Type: a) ☒ Telephonic b) ☐ Video Conference  
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.  
 If Yes, brief description: \_\_\_\_\_ .

Claim(s) discussed: 1-4 and 17-49 .

Identification of prior art discussed: Welch et al. (US 5,255,332) .

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant asserts that the Welch et al. does not teach the "focusing" limitation recited in the claims. .

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 46 is rejected under 35 U.S.C. 102(b) as being anticipated by Welch et al. (US 5,255,332).

Welch et al. discloses a method comprising actuating a reflective element corresponding to the selected input and output channels (see col. 2, lines 31-55); and focusing an optical signal from the selected input channel onto the actuated reflective element (see col. 3, lines 4-6).

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 17, 19, 21, 23, 25-26, 30-34, 37-39, 43-45 and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. in view of Winarski et al. (US 6,317,190 B1).

Referring to claims 1 and 49, Welch et al. discloses a method comprising focusing a selected input light beam on a first selective optical switching element, the first selected reflected optical element directing the selected input light beam to a first output (see col. 4, lines 13-31); selecting a second reflective optical switching element (see col. 4, lines 13-31); and focusing (see col. 3, line 5) the selected input light beam on the selected reflective optical switching element, the second selective reflective optical element directing the selected input light beam to a second output (col. 5, lines 24-45). As per claim 49, Welch et al. discloses a method comprising focusing a selected radiation beam on a first selected on a first selected reflective optical switching element (see col. 2, lines 31-54); selecting a second reflective optical switching element; and focusing the selected radiation beam on the second reflective optical switching element (see col. 5, lines 24-49). However, Welch et al. does not disclose varying a focus of the selected input light or radiation beam to focus onto the second reflective optical switching element.

Winarski discloses a method of varying a focus of an input light or radiation beam (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to vary a focus of the input light or radiation beam to focus onto the second reflective optical switching element since one would be motivated to improve the precision of the device. By having the varying a focus of an input light or radiation beam, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element. Moreover, it has been held that the provision of

Art Unit: 2882

adjustability, where needed, involves only routine skill art. *In re Steven*, 101 USPQ 284 (CCPA 1954).

Referring to claims 2, 4, 17, 19 and 23, Welch et al. discloses the method previously recited. Welch et al. further discloses the method of focusing an optical signal along optical path between the fiber and the switching element (see col. 3, lines 4-10). However, the reference does not disclose that focusing comprises varying a focal length of an adaptive optical element, comprising a variable lens.

Winarski discloses a method of varying a focal length of an adaptive optical element comprising a variable lens (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the focal length of an adaptive focusing element comprising a variable lens since one would be motivated to improve the precision of the device. By having the focal length varied by the adaptive focusing element, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the adaptive optical element comprise a variable lens in order the focal length to be varied without having to replace the lens to match the focal length corresponding to a selected reflective switching element. Moreover, it has been held that the provision of adjustability, where needed, involves only routine skill art. *In re Steven*, 101 USPQ 284 (CCPA 1954).

Referring to claim 21, Welch et al. and Winarski et al. disclose the device previously recited. Welch et al. further discloses an optical crossbar switch comprising at least one optical

Art Unit: 2882

element having a focal length (see col. 3, lines 4-9), the optical element located in a path of a selected input light beam (see Fig. 1, ref. 19, 21, 23, 15) and a plurality of selectable reflective optical elements (see Fig. 1, ref. 17), the selectable reflective optical elements alternatively selectable and interdisposable in the path of the selected input light beam to direct the selected light beam to a corresponding one of a plurality of outputs (see col. 4, lines 14-31); and wherein the plurality of selectable reflective optical elements are located within a range over which the adaptive optical element is capable of focusing the selected input light beam (see Fig. 1, ref. 17). However, the reference does not disclose that the focal length is variable and that the selected input light beam can be focused on any selected one of the plurality of selectable reflective optical elements by adjusting the focal length of the at least one adaptive optical element.

Winarski et al. discloses at least one adaptive optical element having a variable focal length (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the focal length variable and the selected input light beam focused on any selected one of the plurality of selectable reflective optical elements by adjusting the focal length of the at least one adaptive optical element since one would be motivated to improve the precision of the device. Through such a modification, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element. Moreover, it has been held that the provision of adjustability, where needed, involves only routine skill art. *In re Steven*, 101 USPQ 284 (CCPA 1954).

Referring to claim 25, Welch et al. discloses an apparatus comprising a plurality of individually switching reflective elements located to intercept an optical signal from an input



channel (see Fig. 1, ref. 17), the plurality of reflective elements having a plurality of selectable configurations (see col. 2, lines 50-51), each of the configurations directing the optical signal to a corresponding one of the output channels (see col. 2, lines 31-44), in each of the configurations the optical signal incident on a selected one of the reflective elements (see col. 2, lines 31-54); and a focusing optical element in an optical path between the input channel and the plurality of reflective elements and configured to direct the optical signal to a selected reflective element (see col. 3, lines 4-6). However, the reference does not state that the focusing optical element is adjustable, and upon a different one of the reflective elements becoming the currently selected one of the reflective elements, to vary a focus of the adjustable focus optical element to focus the optical signal onto the different one of the reflective elements.

Winarski et al. discloses an adjustable focusing optical element, wherein the focusing of the optical element can be varied (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the focusing element adjustable and upon a different one of the reflective elements becoming the currently selected one of the reflective elements, to vary a focus of the adjustable focus optical element to focus the optical signal onto the different one of the reflective elements since it has been held that the provisions of adjustability, where needed involves only routine skill in the art. *In re Steven*, 101 USPQ 284 (CCPA 1954). Further, such a modification would improve the precision of the device. By having the focal length adjustable, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element.

Referring to claim 26, Welch et al. discloses an apparatus wherein each of the plurality of reflective elements corresponds to one of the plurality of output channels and in each of the configurations the selected one of the reflective elements in the reflective element corresponding to the corresponding output channel (see col. 2, lines 31-54).

Referring to claim 30, Welch et al. and Winarski et al. disclose the device previously recited. However, Welch et al. does not disclose the device wherein the adjustable focus optical element comprises of either an adjustable focus reflective elements or and adjustable focus transmissive element.

Winarski et al. discloses an adjustable focusing optical element (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an adjustable focus transmissive element, since it has been held that the provisions of adjustability, where needed involves only routine skill in the art. *In re Steven*, 101 USPQ 284 (CCPA 1954). Further, such a modification would improve the precision of the device. By having the focal length adjustable, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element.

Referring to claim 31, Welch et al. and Winarski et al. disclose the device previously recited. Welch et al. further discloses a plurality of focus second optical elements each located in an optical path between the plurality of reflective elements and a corresponding one of the output channels (see col. 3, lines 4-13). However, the references do not disclose that the focusing elements are adjustable.

Winarski et al. discloses an adjustable focusing optical element (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the focusing element adjustable, since it has been held that the provisions of adjustability, where needed involves only routine skill in the art. *In re Steven*, 101 USPQ 284 (CCPA 1954). Further, such a modification would improve the precision of the device. By having the focal length adjustable, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element.

Referring to claim 32, Welch et al. discloses an apparatus comprising a plurality of collimating lens, each of the collimating lens disposed in an optical path between one of the plurality of second optical elements and a corresponding output channel (see col. 3, lines 4-13).

Referring to claim 33, Welch et al. discloses an apparatus comprising a collimating lens disposed between the input channel and the at least one adjustable focus optical element (see col. 3, lines 4-13).

Referring to claim 34, Welch et al. discloses an apparatus wherein the input channel comprises an optical fiber (see Fig. 1, ref. 13 and 15).

Referring to claim 37, Welch et al. and Winarski et al. disclose the device previously recited. However, Welch et al. does not disclose that the adjustable focus optical element comprises a liquid crystal lens.

Winarski et al. discloses an adjustable focus optical element comprising a liquid crystal lens (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the adjustable focus optical element comprise a liquid crystal lens

Art Unit: 2882

since one would be motivated to maximize the range of adjustability of the device. According to Winarski et al., such a lens provides “greater focal length range”, thereby improving the versatility of the device.

Referring to claim 38, Welch et al. discloses an apparatus comprising a plurality of optical input channels and a plurality of optical output channels (see Fig. 1, ref. 13 and 15); a plurality of individually reflective switchable reflective elements, each of which is switchable between a reflecting state and a non-reflecting state (see col. 2, lines 50-51); and a plurality of focus optical elements (see col. 3, lines 4-6) in an optical path between a corresponding one of the input optical channels and the plurality of individually switchable reflective elements (see Fig. 2, ref. 19, 21, 23, 25), each of the focus optical elements capable of focusing an optical signal from the corresponding one of the input channels onto a switchable reflective element; wherein the switch is configured so that an optical signal may be directed from a first one of the input optical channels to a first one of the output optical channels by switching a first one of the plurality of reflective elements to its reflecting state and focus the optical signal onto a first reflective element (see (see col. 3, lines 4-6; col. 2, lines 31-54) and the optical signal may be directed from the first one of the input optical channels to a second one of the output optical channels by switching a second one of the plurality of reflective elements to its reflecting state (see col. 3, lines 37-64). However, the reference does not disclose that the focusing optical element is adjustable and further varying a focus of the at least one adjustable focus optical element corresponding to the first input optical channel to focus the optical signal onto the second reflective element.

Winarski et al. discloses an adjustable focusing optical element and varying a focus of an optical element (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the focusing element adjustable and further varying a focus of the at least one adjustable focus optical element corresponding to the first input optical channel to focus the optical signal onto the second reflective element since it has been held that the provisions of adjustability, where needed involves only routine skill in the art. *In re Steven*, 101 USPQ 284 (CCPA 1954). Further, such a modification would improve the precision of the device. By having the focal length adjustable and varying a focus of the at least one adjustable focus optical element corresponding to the first input optical channel to focus the optical signal onto the second reflective element, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element.

Referring to claim 39, Welch et al. discloses a method comprising actuating a reflective elements to direct an optical signal from an input channel to a selected one of the output channels (see col. 5, lines 24-49); and a focusing optical element to focus the optical signal from the input channel onto the reflective element (see col. 3, lines 4-6). However, the reference does not disclose that the focusing optical element is adjustable and varying a focus of the selected radiation beam to focus the selected radiation beam on the second reflective optical switching element.

Winarski et al. discloses an adjustable focusing optical element (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the focusing element adjustable and varying a focus of the selected

Art Unit: 2882

radiation beam to focus the selected radiation beam on the second reflective optical switching element, since it has been held that the provisions of adjustability, where needed involves only routine skill in the art. *In re Steven*, 101 USPQ 284 (CCPA 1954). Further, such a modification would improve the precision of the device. By having the focal length adjustable and varying a focus of the selected radiation beam to focus the selected radiation beam on the second reflective optical switching element, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element.

Referring to claim 43, Welch et al. and Winarski et al. disclose the method previously recited. Welch et al. further discloses a method comprising providing a second focus optical element in an optical path between the reflective element and the selected one of the output channels to couple to the selected one of the output channels (see col. 3, lines 4-6 and col. 2, lines 31-54). However, the reference does not disclose that the focusing element is adjustable.

Winarski et al. discloses an adjustable focusing optical element (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the focusing element adjustable, since it has been held that the provisions of adjustability, where needed involves only routine skill in the art. *In re Steven*, 101 USPQ 284 (CCPA 1954). Further, such a modification would improve the precision of the device. By having the focal length adjustable, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element.

Referring to claim 44, Welch et al. and Winarski et al. disclose the method previously recited. Welch et al. further discloses a method of deactivating the reflective element and

Art Unit: 2882

activating a different reflective element (see col. 2, lines 31-54). However, the reference does not disclose adjusting the focus optical element to focus the optical signal onto the different reflective element.

Winarski et al. discloses an adjustable focusing optical element (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the focusing element adjustable, since it has been held that the provisions of adjustability, where needed involves only routine skill in the art. *In re Steven*, 101 USPQ 284 (CCPA 1954). Further, such a modification would improve the precision of the device. By having the focal length adjustable, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element.

Referring to claim 45, Welch et al. discloses a method wherein activating a different reflective element comprises switching the different reflective element from a non-reflective state to a reflecting state (see col. 2, lines 50-51).

Referring to claim 47, Welch et al. discloses the method previously recited. Welch et al. further discloses a method wherein focusing an optical element signal from a selected channel onto the reflective element comprises a focus optical element (see col. 3, lines 4-6) disposed in an optical path between the selected input channel and the reflective element (see Fig. 1, ref. 19,21,23,35). However, the reference does not disclose that the focusing is adjustable.

Winarski et al. discloses an adjustable focusing optical element (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the focusing element adjustable, since it has been held that the

Art Unit: 2882

provisions of adjustability, where needed involves only routine skill in the art. *In re Steven*, 101 USPQ 284 (CCPA 1954). Further, such a modification would improve the precision of the device. By having the focal length adjustable, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element.

Referring to claim 48, Welch et al. and Winarski et al. disclose the method previously recited. Welch et al. further discloses a method comprising a second focus optical element disposed in an optical path between the reflective element and the selected output channel to couple the optical signal to the selected output channel (see Fig. 1, ref. 19, 21, 23, 25).

However, the reference does not disclose that the focusing is adjustable.

Winarski et al. discloses an adjustable focusing optical element (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the focusing element adjustable, since it has been held that the provisions of adjustability, where needed involves only routine skill in the art. *In re Steven*, 101 USPQ 284 (CCPA 1954). Further, such a modification would improve the precision of the device. By having the focal length adjustable, the optical signal can be precisely coupled to the selected switching element, reducing coupling loss between the optical fiber and the switching element.

3. Claims 3, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. and Winarski et al., in view of Nishikawa et al. (US 5,498,868).



Welch et al. and Winarski et al. disclose the method previously recited. However, the references do not disclose the method comprising a variable mirror device.

Nishikawa et al. discloses a variable focus mirror whose focal length continuously changes (see col. 4, lines 36-40).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the adaptive optical element comprise of a variable mirror device since such a modification would enable the focal length to be varied without having to replace the mirror to correspond with the position of a selected reflective switching element. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the adaptive optical element comprise of a variable mirror device since such a modification would increase the versatility of the device since the mirror can also act as a directional guide for the input light beam.

4. Claims 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. and Winarski et al. in view of Silver (US 6,188,525 B1).

Welch et al. and Winarski et al. disclose the method previously recited. However, the references do not disclose that the variable lens comprising a variable micro-machined membrane lens.

Silver discloses a variable membrane lens (see abstract). Winarski et al. discloses a micro-machined mirror (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a micro-machined membrane lens in order to minimize the size of the mirror therefore simplifying the overall apparatus by minimizing the size of the device.

5. Claims 27-29, 35-36 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. and Winarski et al., in view of Little et al. (US 6,430,333 B1).

Referring to claims 27-28 and 40-41, Welch et al. and Winarski et al. disclose the device and method previously recited. However, the references do not disclose that the plurality of individually switchable reflective elements comprise moving the reflective element between a position wherein the reflective element is in a non-reflecting state to a position wherein the reflective elements is in a reflecting state and wherein the member is moveable between a substantially flat orientation and a substantially upright orientation and when the reflective element is in its reflecting state, the elements is in its substantially upright orientation.

Little et al. discloses a device wherein a plurality of individually switchable reflective elements comprise a member moveable between a substantially flat orientation and a substantially upright orientation and when the reflective element is in its reflecting state, the elements is in its substantially upright orientation (see Fig. 1b).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to move the reflective element between a position wherein the reflective element is in a non-reflecting state to a position wherein the reflective elements is in a reflecting state and wherein the member is moveable between a substantially flat orientation and a

substantially upright orientation and when the reflective element is in its reflecting state, the elements is in its substantially upright orientation since such a modification would act to enable an optical elements to be switched from a reflective state and a non-reflective state, and therefore, would not have altered the primary function of the invention of Welch et al.

Referring to claims 29, 35-36, and 42, Welch et al. and Winarski et al. disclose the device and method previously recited. Welch et al. further discloses an apparatus wherein the plurality of individually switchable reflective elements comprise a linear array of reflective elements (see Fig. 1); and wherein the plurality of linear arrays include a reflective element corresponding to each possible combination of one of the input channels and one of the output channels (see col. 2, lines 31-44). However, the references do not disclose that each of the plurality of individually switchable reflective elements comprise a micro-machined mirror.

Little discloses a plurality of switchable reflective elements comprising a micro-machined mirror (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the elements comprise a micro-machined mirror since one would be motivated to minimize the size of the mirror in order to simplify the device by minimizing the overall size of the device.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard H Kim whose telephone number is (703)305-4791. The examiner can normally be reached on 8:30-5:00 M-F.

Art Unit: 2882

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H Kim can be reached on (703)305-3492. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7722 for regular communications and (703)308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

Richard H Kim  
Examiner  
Art Unit 2882

RHK  
March 25, 2003

A handwritten signature in black ink, appearing to read "David V. Bruce", written in a cursive style.

**DAVID V. BRUCE**  
**PRIMARY EXAMINER**